

NEW HAMPSHIRE FIRE STANDARDS & TRAINING COMMISSION

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MINUTES OF MEETING

February 5, 2004

(Approved March 4, 2004)

Members Present: Edward Murdough, Karen Schlitzer, Robert Nelson, Earl Sweeney, Ronald O'Keefe, Scott Weden, David Duquette, Stephen Carrier, Roger Hatfield, Al Burbank, John Hoglund, Peter Russell, J. William Degnan, Richard Mason.

Members Absent: Joseph Butts, Corey Landry.

Others Present: Division of Fire Standards & Training Staff--Bruce McPherson, Bureau Chief; Dennis Rosolen, Bureau Chief; Heather Newland, Recording Secretary; Michael Mansfield, Program Coordinator.

I. CALL TO ORDER

Item 1. Pledge of Allegiance to Flag. The meeting of the New Hampshire Fire Standards & Training Commission was called to order by Chair David Duquette at 10:00 a.m. on Thursday, February 5, 2004 at the Richard M. Flynn Fire Academy. The Pledge of Allegiance to the Flag was recited.

II. APPROVAL OF MINUTES

Item 1. January 8, 2004. Director Mason explained that Sue Beaudoin's husband has been in ICU at Concord Hospital for quite a spell of time, and that is why the draft of the Commission Minutes for January 8, 2004 have not been completed.

III. CHAIR'S REMARKS

Chair Duquette stated that his City Manager in Dover went to the Fire Chief and said he can hire as many people as he wants as long as he can pay for their salaries, and the gist was to look for new revenue sources. As we know we have always charged in the fire service; we charge for ambulance service. More recently if it's a hazardous materials call, there is a charge for that. If a business had a fire alarm go off and had it fixed within so many days, there was no charge. But, if they exceed that time limit, they are charged. Most recently they have looked at fees for services if you have a car accident and the fire department has to go to extricate someone. If there's a DWI felony case, the Police Department has charged fees for services for years. Now it's time for the fire service to get their hands on a little of that. So there was a fee schedule set up based on if there's a motor vehicle accident, depending on how many resources we use at that incident, there will be a fee for that. When we talked about fees for fires, again the business that takes care of its sprinkler system is a lot less likely to have a fire than a business that doesn't take care of it, or doesn't have fire protection, and uses our services a lot, why not charge to use our services. Unfortunately when *Foster's* (Dover newspaper) got a hold of it, they did a front page ad that Dover was going to charge for fire and people aren't going to call the fire department. The fees were based on what the insurance companies will pay, and no fee is greater than that. Commissioner Hatfield said that the *Union Leader* had done an article on this.

Commissioner Russell asked what the ordinance says; do you charge everybody. Chair Duquette answered that it's across the board, and it depends on the services provided. It's based on how much it would cost to actually run the incident.

IV. COMMITTEE REPORTS

Item 1. Emergency Medical Services Liaison. Chair Duquette reported that local options protocols is the hot topic with the EMS Trauma Coordinating Board. The State Coroner came in to give a very nice presentation on costs, how their office operates, and what happens when EMS calls them to a scene for an obvious death. It's pretty amazing to listen to how that side works, how much it costs and how long it takes for an autopsy.

The Division recently hired John Clark to fill the position previously held by Will Owens.

Item 2. Fire Marshal's Office. Acting Director Degnan gave the following update on his office's activities:

- (a) Fire Fatalities: An elderly woman who tried to put out a fire died; an elderly man died; and a 36-year-old man, who was a heavy drinker and a heavy smoker, died of smoke inhalation.
- (b) Arson Fires: They have had several arson fires, with two in the same weekend. The Hampton arson case is still being looked at very closely.
- (c) Public Education Seminar: Over 50 people from the fire service, law enforcement, and a good representation from teachers from the communities attended the RiskWatch Public Education Seminar recently. The teachers seem to be the ones with all the energy; they seem to value the program and get excited about it.
- (d) Senate Bill 355: There is a Senate Bill in regarding licensing sprinkler contractors, alarm installers, and fire extinguishing systems installers that was consolidated from three Bills into one. The Senate decided to make it voluntary. It goes to the House now, where we are going to try to have it changed back to mandatory. If it's voluntary, it's not worth the paper it's written on. The important part to the fire service is that a well-maintained sprinkler system means that there will be less unnecessary runs.

Commissioner Russell asked if anyone has talked to the Oversight Committee for help. Acting Director Degnan stated that, if we can get it changed back to mandatory instead of voluntary, it would go to the Committee of Conference and hopefully come out of there mandatory.

Commissioner Heglund asked where the push for voluntary as opposed to mandatory came from. Acting Director Degnan answered that Senator Green from Rochester wants it to be voluntary.

Commissioner Burbank stated that the Fire Marshal's Office was involved with incidents in his area. They had plumbing contractors who had no clue; so there is a need for licensure for installation. Chair Duquette asked if this would be a 28-A issue. Assistant Commissioner Sweeney replied that it doesn't apply to private individuals.

Commissioner Russell asked who the sponsors of the Bill are. Acting Director Degnan answered that Representative Hall is co-sponsoring it with Senator Prescott.

- (e) Chair Duquette stated that John Gregoire's retirement party is scheduled for this Saturday night, February 7, at Yoken's in

Portsmouth, which is a favorite place of his. It's to be a surprise. Chair Duquette also added that John's father-in-law passed away recently.

Item 3. Forest Protection Bureau. Commissioner Nelson reported on the following items:

- (a) They hired John Dodge as a Regional Ranger. He has been a Ranger in the seacoast area previously. Director Mason noted that John was a graduate of one of our Company Officer program.
- (b) Two entry-level Forest Ranger positions are on hold due to the budget cuts. The candidates have been recommended to our Director.
- (c) They are working with a third Regional Ranger to come up with new district lines. Commissioner Nelson noted that it's an interesting process to go through.
- (d) They are working on evaluation for education process for Wardens' appointment process. They hope the new process will help eliminate problems.
- (e) They have sent a punitive fine schedule to the Supreme Court. If they get approval, it will go to the Firemen's Committee. If approved, they would have fines in place.
- (f) Firemen's Expo ends this Saturday, February 7, and is being held at the Center of New Hampshire in Manchester.
- (g) They are working on an outreach program for the Fire Marshal's Office. They have sent fire prevention to schools on wildland fire issues.
- (h) Commissioner Nelson said he testified on a Bill to limit access to private property for any law enforcement, fire, or public entry to access land. The Division approved the Bill. Unless you had a valid search warrant, you could not go on the property. They haven't seen anything out on it yet. Hopefully it will be labeled inexpedient to legislate.
- (i) The Governor is still recommending that the fire towers be closed. They took action on this Commission. The NH Fire Chiefs Association sent something. They feel the towers and the patrols are essential.

Commissioner Russell asked if we know what the cost of the towers are. Commissioner Nelson responded that it is \$250,000 for salaries and benefits, plus maintenance and telephone costs; so around \$300,000.

Item 4. Emergency Preparedness and Security. Commissioner Landry was absent.

Item 5. Curriculum Review. Chair Duquette reported that the Curriculum Status Report is in each Commission member's packet and is as follows:

- (a) Driver/Operator Series:
 - (1) Pumps:
Classes are in progress with Bedford
- (b) Hazardous Materials Series:
 - (1) Operations:
This program is well underway at this point with no problems reported.
 - (2) Technician:
The trailer is proving to be a valuable asset and will be an on-going work in progress.
- (c) Aircraft Rescue & Fire Fighting:
We have just completed the first 40-hour certification class and will be meeting soon to evaluate the course delivery. For the moment the program was successful.
- (d) NFPA 1030 Series:
 - (1) NFPA 1031, Standard for Professional Qualifications for Fire Inspectors and Plan Examiners:
A class has been scheduled in Goffstown this winter. At this point classes will be scheduled periodically as they consistently fill up. We are ready for Inspector II visiting committee soon.

Commissioner Hatfield stated that, according to Rick Wood, they are finalizing that program and they want to move on to Fire Inspector II. Commissioner Hatfield said that we probably can use the same Visiting Committee as Fire Inspector I as they have the knowledge and experience from Fire Inspector I. It was agreed that the current Visiting Committee will continue, and Commissioner Hatfield will inform Rick Wood of this.

- (2) NFPA 1033, Standard for Professional Qualifications for Fire Investigator:
Is in progress and looking at two separate programs, one a one-week course for firefighters, and a two-week course for fire investigators. At this point it looks as though the New York curriculum is being considered for both classes. The committee estimates it will present the curriculum by the April meeting.

Commissioner Hatfield reported that he spoke with Rick Wood about the Fire Investigator program. The would like to

do a presentation at the March 4, 2004 Commission meeting in order to do the pilots this spring.

- (3) NFPA1035, Standard for Professional Qualifications for Public Fire and Life Safety Educator:
Will probably follow the 1033 standard.

(e) Rescue Series:

- (1) Structural Collapse:
No pilots scheduled as yet.
- (2) Confined Space:
The September class went well with a trip to Merrimack to use the confined space trailer prop as it could not be delivered on site.

(f) NFPA Series:

- (1) NFPA 1001 Firefighter I and Firefighter II:
This committee is soon to be scheduled when Captain Wilking and Commissioner Joe Butts are able to get together.
- (2) NFPA 1021 Fire Officer:
This committee is moving right along well nearing completion.

Commissioner O'Keefe reported that the Visiting Committee's intention was to have the Fire Officer program ready for this spring, but it has now been postponed to fall 2004.

- (3) NFPA 1041 Instructor:
This committee will meet again on February 11, and is in a discussion over Instructor, Instructor II, and perhaps Instructor III curricula at this time. With the addition of approximately 12 hours, this may be a reality.

Commissioner Carrier stated that the Instructor Visiting Committee has been meeting and working with EMS to protect their interests. They may be coming back to add 12 hours to include Instructor III, which would end up as a 60-hour Instructor I-II-III program. They are working on their final report.

Commissioner Nelson said he had a question on the additional 12 hours, noting that we have talked about this in the past. He asked if we are keeping in mind the impact on all fire departments. They have the same issue in the wildland fire area. Commissioner Carrier said that they did discuss this at length, and they hesitated on adding any hours. The 60-hour course may be for the staff of the Fire

Academy. They have thought about it, and it is still an option.

Chief Rosolen said we are not trying to flood the market with Instructor IIIs. Forty-eight hours goes beyond Instructor I. The 16-hour program is there. Also we have combined Fire and EMS together.

Director Mason said that the rules have changed for the fire service. There was an issue in New York where a 19-year-old was asked to stay in a building during live fire evolutions, and he died. There always used to be places in the law for immunity. In this example, the rules were changed by the court. New York was the first in the country where a firefighter was given time and a felony over training issues.

Commissioner Hatfield said he has a concern. The Instructor program was a building block. The mentoring program is good. By doing Instructor III, we are adding supervisory material to the program, and the student might not be ready for supervising. Commissioner Carrier said that a student may be certified to that level, but he/she cannot teach until he/she meets the Fire Academy's requirements as an Instructor. There are safe guards in place. Director Mason stated that, if someone wants to be an Instructor, he/she will get the training. Very rarely do we have seats available in classes.

Commissioner Burbank said that his point is, are we creating a system where inexperienced people will be teaching people how to survive. Director Mason stated that, before someone is a Lead Instructor, he/she has mentoring to do. Also Instructors can go to your fire department to teach whatever they want. The department's liability is an issue. You don't want a 20-year-old as a training officer in a department. Commissioner Burbank noted that he is a little uncomfortable, and he would like to be on record that we need to walk softly on this issue.

Commissioner Carrier said that it is a possibility that an Instructor III can go to a department and say you can hire me as a teacher. Commissioner Weden said that that would be that department's responsibility. The Fire Academy and the Commission do what they are required to do, and there is a mentoring process in place. Chief Rosolen noted that, to

start the Instructor process, they need three years' experience as a firefighter, and they need an 85 percent or better on the Firefighter I examination. Then they take the program, and at that point they get a certificate. If they want to teach for us, they need a train-the-trainer to be able to teach; then they need to get a mentor to evaluate them. This would activate them as a State Instructor. If they become Staff Instructors, they are on probation for one year. We have checks and balances in place. If someone comes from a different state with an Instructor certification, this puts him/her in the same place as someone who just finished the program.

Commissioner Carrier thanked everyone for his or her input.

(4) NFPA 1006, Firefighter III Series:

(i) Ice Rescue Technician:

Program Coordinator Michael Mansfield made a presentation on Ice Rescue Technician.

Motion was made by Commissioner Sweeney, seconded by Commissioner Burbank, to approve the Firefighter III – Ice Rescue Technician program for two pilot programs. Motion passed unanimously.

(ii) Rope Rescue Technician:

Motion was made by Commissioner O'Keefe, seconded by Commissioners Burbank and Nelson, to form a Visiting Committee for the Firefighter III – Rope Rescue Technician program. Motion passed unanimously.

(g) Other:

(1) Visiting Committees for the following in accordance with the Commission vote on February 3, 1999 are about to commence in the near future once the committees are established. Hopefully to be established this meeting.

(i) NFPA 1002 Aerial Apparatus needs to be brought on line as soon as possible.

Commissioner Burbank stated that he would like to participate on the Aerial Apparatus Visiting Committee. Chair Duquette said that he has been talking with Captain Eric Wilking as it is tough to teach this program.

- (ii) NFPA 472 Hazardous Materials Decontamination needs to have Weapons of Mass Destruction added, and the existing program reviewed as soon as possible.
- (h) Certification and Evaluation Testing:
Commissioner Carrier reported that some members of the Fire Instructors & Officers Association have concerns about the certification and evaluation testing. Their concerns are about Job Sheets in Firefighter I, and on personnel hired to do evaluations. He said he knows that the Fire Academy is taking steps, and he is comfortable with a staff member going to the examinations.

Chief Rosolen responded that personnel issues are his responsibility. If there is an issue with personnel, they are to be referred to him. He explained that the way the program works, they pick a few Job Sheets for the final examination, and retest the students on them. This was the best thing we could do for accreditation. All are taken from the IFSTA curriculum. At the end of the program, no one is eligible to take the examination if they did not pass the Competency Profiles (Job Sheets). There will be changes coming up with NFPA 1001; we are looking to change some of the final practicals to stay in line with the Competency Profiles.

Commissioner Carrier said he appreciated the explanation, and that is what he will relay back to the Association.

Chief Rosolen explained that we have come a long way. We are really critical of ourselves. We have been asked how we keep control of our Instructors, and it is because we have the system in place. We wouldn't be accredited unless we had the system.

Item 6. Retreat Committee. Commissioner Murdough reported that the Retreat is on track. Questionnaires will be coming out around the time of the April Commission meeting for input on topics or issues you want to address at the Retreat. The Retreat will be held at the NH Forest Society in Concord on Thursday, June 3, 2004.

V. REPORT OF THE DIRECTOR

Item 1. Director's Report #78. The Director's Report was as follows:

(a) *COURSES CANCELLED*

With a continuous review of the budget I felt that we needed to slow down the expenditures, so a couple of programs requested were asked to be put off for a period of time and we cancelled one evening Firefighter II program scheduled for the fire academy. Since we were granted a dedicated funding source in fiscal year 2001 we have never turned down a program request...right now it is getting out of control, and we can not give customer service if we have too many programs running at the same time. So we have more than just budget issues with the running of programs presently.

(b) *FIRE ACT GRANTS*

Several issues to report:

- 1) New Hampshire is up to \$4,314,003 being awarded from the FY03 grants.
- 2) FY04 workshops have been scheduled, see attached.
- 3) FY05 presidential budget gives \$500,000,000 for grants.

(c) *LEGISLATION*

SB432 – Changes the name of the division to the Division of Fire Standards and Training and Emergency Medical Services. The first hearing was January 14th and there have been a couple amendments that are being considered.

SB380 – Establishes a statewide incident command system to be in line with the FY05 requirements for federal grants.

HB1401 – Limits pre-emptive devices that can control traffic signals...like the Opticom system. There is a market selling these devices to individuals.

(d) *ROTARY PROGRAMS*

January 12, 2004 Harry McGovern was the Lancaster Rotary program and January 23, 2004 Dennis Rosolen was the Gilford Rotary program. I have heard from members of both clubs who stated the programs were very worthwhile.

(e) *PERSONNEL CHANGES*

The Division is going to be the clearinghouse for the courses run in state government for weapons of mass destruction and terrorism. To accomplish this we will be taking on two new full-time employees who will work with Andy Anderson. They will be transferred from the Office of Emergency Management.

(f) *NOTICE FOR COURSE APPROVAL*

As stated earlier we are having difficulty in providing the customer service needed to run multiple courses simultaneously. Therefore the attached letter, policy, and course approval request form are being mailed to every fire department, organization, staff instructor, and staff member to assure we are all on the same page

with this issue. Every time we make exceptions to our own rules we have issues.

Presently we are trying to fix an issue with a fire department that really arose because we did not allow ourselves enough time to make the course handouts properly, we did not have instructor contracts (and one didn't show up to teach), and we did not want to say no...customer service would have been better defined if we did!

Further discussion was held on the following items:

- (a) Director Mason stated he thinks there are a lot of misconceptions in the field. Someone said recently that their fire chief was going to go to their Executive Councilor because the Governor is not giving us our money. We have to ask for the money if we are to receive it. We have not gone to the Fiscal Committee to request additional funds. In our Instruction account we have the ability to go to Administrative Services, and we have done that to increase the part-time salaries.

Director Mason said that both the first and the last items on his written report come together. Since 2001, we have never cancelled or denied a program. We are now over 300 programs a year. In Fiscal Year 2000, the last year we had non-dedicated funds, we probably had 50 programs. It's growing so fast he said he has a real concern that we are going to burn out instructors. He has a real concern that we are not going to be able to handle the resources that we need to do programs. Some departments need ladders and hose to help because they can't support it.

Director Mason said that we were given an appropriation at the beginning of the year and he thinks we are getting pretty close to it. There is a mandate for a 10 percent reduction in General Fund agencies, not dedicated funds agencies yet. So, at this point in the budget year if we are told to cut 10 percent, we have to make sure we can cover our operating expenses. So we are not going to be able to have the number of programs that we have had because we just can't physically do it.

Director Mason stated that our estimated revenue right now is \$4.41 million this year from the Fire Emergency Medical Training Fund. This is quite a bit less than last year. To meet the appropriations, we need to have \$5.08 million. We are eating into the surplus this year by \$678,000 if the projections go the same and the appropriations are completely spent by the people that are

funded by that. We did end last year with a surplus. Effective July 1, 2004, we will have a bond schedule on this new dormitory building. He presumes that will be \$200,000 to \$300,000 a year. Even if we can go back to get this year beefed up, we will have the same problem next year.

Director Mason said the other side of the coin is short notices for classes. We had in place 30 days notice years ago, and then we cut that down to 20 days. However, we weren't really supporting many programs in the field. Now we support almost every program in the field. We can no longer approve programs in less than 60 days. So we have some issues, and they are growing pains. We are going to get through it. Director Mason assured everyone that the no one is not holding any of our funds. We have not requested to go to the Fiscal Committee.

Assistant Commissioner Sweeney said that we will be out of money in three years. So in the next legislative session we need to look at raising the record fee that supports the program. The other thing is that the life insurance companies can now access motor vehicle records. They are trying to get that program online while coping with the privacy regulations that are more stringent in New Hampshire than anywhere else in the country. If that goes online, we could probably get another \$1 million a year.

Director Mason explained that, by rule, we charge 25 percent to New Hampshire firefighters for any program we have, and 125 percent for non-New Hampshire firefighters. We used to bring in less than \$200,000 a year. Last year we brought in about \$455,000. There are some surplus funds there. This year we are right on the same money, between \$420,000 and \$450,000, so we have access to that money through Administrative Services. So we are going to make it through the end of the year if it all goes as we think it will.

Director Mason said he brought this up because a letter will be going out next week to every fire department. The fire organizations that are represented here will be getting a copy right now. We are going to hold true and fast to the 30-day or the 60-day notice, whichever it is for the program. We can't vary from that. Also, we are not going to approve courses that we are not comfortable that we can support.

Chair Duquette said that he's gotten a lot of calls on this. When people call him to say that a course was cancelled, his response is

that we didn't really cancel anything, we just didn't approve another course because there wasn't the support to have it.

Director Mason said that we had an agreement with the Interstate Emergency Unit in Rockingham County that we would contract with them to do two courses a year. They did a Firefighter I and a Firefighter II that we paid for. They came in to do their spring programs, and we said no. The President of the Seacoasts Chiefs called me up to ask why we were shutting them off. Director Mason told him that the agreement is for two programs a year, and we already did them back in the fall. We also have run three or four programs in the southwestern part of the State and they want more. We're sorry but we can't support more there.

The one program we had to cancel was our evening Firefighter II here saying that, if we're going to not approve programs in the field, we are going to do the same here.

- (e) There are personnel changes to deal with Weapons of Mass Destruction and Terrorism. We have several agencies doing training right now. Director Mason stated that he and Bruce Cheney have gotten together, and as of yesterday (February 4), two OEM employees came over to do training, Roy Nieder and Bob Jeffries. They spoke with Chief Rosolen and Captain Anderson about being in our agency, and Director Mason thinks we will go forward with something like that. It's all tied back into the Emergency Preparedness & Security Advisory Council, which will meet again on Monday, February 9.

Other items discussed were:

- (g) Manchester Fire Department's Recruit class of 16 people is graduating tonight (February 5). Quite a few Academy staff members are going down for that.
- (h) Program Coordinator Ted Starkweather is a new City Councilor in Franklin.
- (i) The Massachusetts Peter Lamb, not the Newport Peter Lamb, who was for four months the Director of Fire Training for the State of Massachusetts, is now the Chief in North Attleboro, Massachusetts. Now they will be seeking to fill the Director's position there.
- (j) Chief Sue Prentiss isn't here today because she and her significant other have bought a house, and they had something to do with the purchase of that today.
- (k) Director Mason said that many people who teach play with coins in their pockets. He distributed coin purses with the Fire Academy

name on them to everyone present and noted that we give them out to students in Instructor programs.

- (l) Director Mason said not too long ago he was in Commissioner Flynn's office. Assistant Commissioner Sweeney was there, along with Keith Lowman, Director of the Police Academy, and Bruce Cheney, Director of OEM and 911. They talked about the Fire Standards & Training Commission, and Director Mason realized that the members of the Commission here are representing the fire service, and you have to be really, really careful because right now we have three former police chiefs sitting on the Commission.
- (m) The NH Municipal Association is adding an addition to their building, and wanted to somehow make a memorial in their lobby for what happened in New York City on 9-11. Somehow they got pieces of the World Trade Center. They have enough to build four memorials, and asked if we would accept one, as well as the Police Academy. The pieces are titanium heating pipes from the World Trade Center. It was graciously donated to us in a ceremony in Commissioner Flynn's office that Commissioner Weden was in on as well. There are four of these in existence in the State of New Hampshire; two will be next to each other as though they were twin towers in a shadow box in the new Municipal Association. There is one at the Police Academy; and we will be building some type of a shadow box in the Fire Academy lobby. Director Mason passed it around for everyone to see.
- (n) Assistant Commissioner Sweeney said that the *Portsmouth Herald* called him to say that the Seabrook Fire Chief was making all kinds of allegations that the Department of Safety was stealing all the homeland security money for administrative costs, and the radios we were buying were no good because he couldn't use them on his frequency. When the reporter called Assistant Commissioner Sweeney, it lit him off like a sky rocket. Just so that people know the facts, to begin with 80 percent of this money has to go to local communities and 20 percent to State agencies. Actually what the State did was take an additional \$8 million of State funds and used it for about 2,200 interoperable radios because they recognized that the police departments had pretty decent radios, but that the fire service had been lagging behind for years. The radios will be installed in ambulances and fire trucks across the State over the next few months. They have also allocated in next year's budget another sum of money that they could have held for themselves. As far as administrative costs, they have taken less than one-half of the money they are entitled to. They have two full-time people and one part-time person handling all they federal bureaucracy and paperwork that has to go in. The Chief also made an allegation that they stole 12 people

from Health & Human Services. Health & Human Services dumped 12 people off on them because they felt that those people working on bio-terrorism and radiological terrorism planning was closer to the mission of what the Office of Emergency Management was doing. The Fire Academy has put on a number of response to terrorism programs that the fire department could have taken advantage of. Assistant Commissioner Sweeney said the Chief said his expenses were disallowed. Assistant Commissioner Sweeney said they have also had disallowed expenses. The federal government has a list of what is allowable; and, if you don't buy what's allowable, they can't pay it.

VI. OLD BUSINESS

None.

VII. NEW BUSINESS

Item 1. Proposed Changes in Rules. Commissioner Schlitzer explained that the proposed changes in the Commission's Rules that were distributed (see attached) would take care of any issues with the Entrance Exam. Some of the wording is what Police Standards uses. She noted that a lot of details which list crimes are more relevant to police issues, and she wondered if they should stay or be changed.

Commissioner Hatfield said that they go through a lot of criminal background checks, and he finds a lot of misdemeanors. He said that, for them to eliminate someone from their process, they must have committed a felony, not a misdemeanor. He also asked what they do once someone is convicted of DWI after being hired. Commissioner Schlitzer said she didn't think they wanted this level of detail and they should be the ones to strike out items. She said she's not sure what issues should be left to the local authorities.

Director Mason suggested that this item be tabled for one month. He noted that Marta Modigliani deals with this type issue all the time.

Commissioner Russell asked how "engaged in conduct" would be defined, and how do we support a decision. Commissioner Schlitzer answered that the Commission would do an investigation and hold a hearing. She said that criminal justice might not be able to prosecute based on the evidence, but this Commission might be able to take action.

After further discussion, it was agreed that anyone could call Commissioner Schlitzer at 271-1264 with their questions. She will email an updated copy of the draft to everyone.

Commissioner Burbank stated that, just because a person isn't convicted, the Commission may want to act upon or at least have the option to act upon issues such as drug or domestic abuse incidents. He said we should leave our options open on some issues.

Chair Duquette said that the item will be held for further discussion until the next Commission meeting.

VIII. GOOD OF THE ORDER

Item 1. Karl Berardi. Commissioner Nelson said that he came across former Commissioner Karl Berardi at a north country meeting. He said Karl would like to come to the next Commission meeting to do a presentation on rural fires.

Item 2. Incident and Injury Reports. Commissioner Nelson asked if we still get incident and injury reports. Chair Duquette explained that a lot of personnel issues should be handled by the Fire Academy staff. We could get the numbers from the staff. Commissioner Nelson said that a person made him aware of it, and he will get back to that person.

Item 3. Homeland Security. Commissioner Hatfield reported that Commissioner Flynn and Assistant Commissioner Sweeney have been supportive on homeland security. We have good representation there, and they have been helpful to us. If anyone has any questions, they can pick up the telephone to call for answers. They are also communicating to local authorities.

Item 4. Twin State Annual Meeting. Commissioner Nelson reported that the Twin State Annual Meeting was held a week ago. State Police Major Fred Booth gave an excellent presentation. He would like to be invited to fire and EMS groups to do presentations.

Commissioner Hatfield said that the State Police are doing a good job. They spend their time educating us.

X. ADJOURNMENT

Motion was made by Commissioner Hatfield, seconded by Commissioner Carrier, to adjourn at 1:15 p.m. Motion passed unanimously.

Respectfully submitted,

Richard A. Mason, Director

Items distributed at meeting:

1. Agenda 02/05/04
2. Director's Report #78
3. US Fire Administration FY 2003 Award Recipients through 01/30/04
4. IAFC Past President Marinucci Recognition for Work with NHFS&TC
5. Fire Act Grant Workshops in NH 01/16/04-03/03/04
6. Curriculum Status Report 02/05/04
7. Director's Letter to NH Fire Chiefs Regarding "Request for Course Approval" Time Lines
8. Current Fire Rules Proposed Amendments

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Attachment: Proposed Administrative Rules Changes

CURRENT FIRE RULES, PROPOSE AMENDING AS FOLLOWS:

CHAPTER Fire 400 MINIMUM STANDARDS FOR TRAINING

PART Fire 401 GENERAL INFORMATION

Fire 401.01 Availability of Certification. (RSA 21-P:25, I; RSA 21-P:27, I(b)(e))

- (a) All fire personnel shall be certified by the commission if:
- (1) They successfully complete a commission approved course; ~~and~~
 - (2) They satisfactorily complete certification testing; ~~and-~~
 - (3) No circumstances exist which would be grounds for revocation or suspension of certification pursuant to Fire 501.02.

Fire 401.03 Distinction Between Course Completion and Certification. (RSA 21-P:25, I; RSA 21-P:27, I (b))

(a) Students may complete modules or courses leading to certification by fulfilling all of the requirements specified in the training outline approved by the commission in accordance with Fire 402. At that time the student shall be eligible for certification so long as the student is otherwise qualified in accordance with Fire 401.01(a)(3).

~~(b) Students shall only be certified by the commission upon fulfilling all course requirements and satisfactory completion of practical and written certification tests as designated by the commission in accordance with these rules.~~ (deleted because, with the added language in section (a) above, the rule seems redundant. Moreover, this rule would also exempt them from meeting the new requirement of Fire 401.01(a)(3) in order to be certified)

~~Fire 403.06 Invalidation. Violation of commission procedures or rules that affect the score given to a test shall result in the invalidation of the test.~~ (deleting this rule because amended rule 801.01 mandates invalidation of test/exam upon a finding of cheating)

CHAPTER 800 ALLEGED CHEATING INCIDENTS, ~~ALL TESTS~~

PART Fire 801 ALLEGATIONS OF CHEATING

Fire 801.01 (RSA 21-P:25, I; RSA 21-P:27, I(b)) Candidates Caught Cheating. Upon a finding by the commission that a candidate has participated in cheating with respect to the entrance exam or certification testing, his/her test or exam or test shall be ~~Any candidate caught cheating by the examination proctor shall have his/her test~~ invalidated. The candidate shall ~~be dismissed and~~ not be allowed to complete any other phase of the procedure. The candidate's fire department shall be notified of the incident.

Fire 801.02 **(RSA 21-P:25, I; RSA 21-P:27, I(d); RSA 21-P:29, II)** Settlement of Cheating Complaints. Complaints shall be handled as set forth in Fire 200 if the complaints could result in revocation of certification.

CHAPTER Fire 500 OWNERSHIP AND REVOCATION OF CERTIFICATES

PART Fire 501 OWNERSHIP AND REVOCATION

Fire 501.01 **(RSA 21-P:25, I; RSA 21-P:27, I(e))** Ownership of Certificates. All certificates and documents issued by the commission shall remain the property of the commission and shall be returned to the commission upon revocation or suspension.

Fire 501.02 Revocation or Suspension.

(RSA 21-P:25, I; RSA 21-P:27, I(e), RSA 21-P:29, II)

(a) After notice and opportunity for a hearing, the commission shall, unless it has just cause to do otherwise as provided in (ed) below, order the suspension or revocation of certification for any of the following reasons:

- (1) ~~(1)~~ The certification was obtained by fraudulent or illegal means;
- (2) The individual has been convicted either prior to or after certification of a crime which constitutes a felony in this or any other state, territory, province or country;
- (3) The individual has been convicted either prior to or after certification of a misdemeanor for which there was a sentence of incarceration, regardless of whether all or part of the sentence was suspended;
- (4) The individual has been convicted either prior to or after certification of a crime of moral turpitude or of a crime which tends to bring discredit on the fire service, including but not limited to:
 - a. Theft;
 - b. Assault;
 - c. DWI;
 - d. Criminal threatening;
 - e. Reckless conduct;
 - f. Corrupt practices;
 - g. Falsification of documents or evidence;
 - h. Fraud;
 - i. Sexual assault;
 - j. Public indecency;
 - k. Stalking or criminal violation of a protective order;
 - l. Reckless driving; or
 - m. Disobeying an officer;

- (5) The individual's discharge from employment has become final or he or she has been allowed to resign in lieu of discharge from employment in the fire service in this or any other state, country, or territory for reasons of a lack of moral character as defined in Fire 101.27 or moral turpitude as defined in Fire 101.28 or for acts or omissions of conduct which would cause a reasonable person to have doubts about the individual's honesty, fairness, and respect for the rights of others and for the laws of the state or nation.
- (6) The commission finds that the individual has engaged in any conduct which tends to bring discredit on the fire service, including, but not limited to the conduct specified in Fire 501.02(a)(5), regardless of whether any criminal action or action from the individual's employer has been taken.
- (7) The individual has, after being hired in the fire service:
 - a. Used marijuana;
 - b. Illegally used or possessed any other controlled substance; or
 - c. Illegally purchased, sold, cultivated, transported, manufactured, or distributed a controlled drug or an imitation controlled drug.
- (8) The individual is unable to continue working in the fire service for a period of 45 days or more by reason of a severe level mental disorder as diagnosed by a psychologist or psychiatrist who uses mental status examinations and standardized psychological tests normed for police or corrections officers;
- ~~(8)(9)~~ ~~(2)~~ A person commits a violation, after prior notice, of commission rules relative to him or herself or the fire personnel working or training under his/her control and at his/her direction; or submitted false or forged documents, or misrepresented a document or testimony before the commission; or
- ~~(9)(10)~~ ~~(3)~~ The certificate was issued through administrative error.
- (b) A certification shall be temporarily suspended pending resolution of criminal charges if the individual has been arrested, indicted or bound over either prior to or after certification for a felony or any crime involving moral turpitude or of a crime which tends to bring discredit on the fire service, unless the safety of the public or the confidence in the fire service would not be adversely affected.
- (c) Examples of crimes that involve moral turpitude or of a crime which tends to bring discredit on the fire service shall include but not be limited to:
 - (1) Theft;
 - (2) Assault;
 - (3) DWI;

- (4) Criminal threatening;
- (5) Reckless conduct;
- (6) Corrupt practices;
- (7) Falsification of documents or evidence resulting in unsworn falsification, false testimony or evidence tampering;
- (8) Fraud;
- (9) Sexual assault; and
- (10) Public indecency.

(d) ~~(e)~~ The commission shall not order suspension or revocation of a certification if it finds just cause not to do so. ~~which includes:~~

(e) Examples of just cause pursuant to (d) above shall be as follows:

- (1) The charges against the fire personnel were not proven by a preponderance of the evidence; ~~or~~
- (2) ~~(2)~~ The violation is so minor that a suspension would not have a deterrent or rehabilitative value, or promote a legitimate public interest;-
- (3) The fire personnel's health or service status makes suspension or revocation a needless gesture.

(f) For purposes of this section, a determination of a lack of "good moral character" is not restricted to acts that reflect only moral turpitude, but shall be based upon the consideration of all aspects of a person's character as exemplified by their behavior, including but not limited to the following:

- (1) Violation of a statute of this or any other state, territory or nation for which a penalty may be imposed;
- (2) Conduct involving dishonesty, fraud, or attempted deception regarding an application, examination or other document for securing employment, eligibility, or certification;
- (3) Conduct involving misrepresentation or tampering with official records or reports, tampering with witnesses or falsifying evidence; and
- (4) Conduct that would adversely reflect on a person's fitness to perform fire service duties, including but not limited to:
 - a. Intoxication while on duty;
 - c. Sale or use of illegal controlled substances;
 - d. DWI;
 - e. Domestic abuse;
 - f. Undue familiarity with known criminals;
 - g. Sexual harassment;
 - h. Stalking or criminal violations of a protective order;
 - i. Slanderous use of confidential information;
 - j. Bribery or acceptance of illegal gratuities;
 - k. Theft or misappropriation of funds or property;
 - l. Adultery;
 - m. Child abuse;

- n. Perjury;
- o. Assault; or
- p. Disorderly conduct.

(b)g) The provisions of Fire 200 shall apply to hearings held under this subdivision.

Fire 201.02 (RSA 21-P:27, I(d)(e); RSA 541-A:16, I(b); RSA 541-A:30-a, III(j)) Waiver or Suspension of Procedural Rules. ~~The commission shall not permit a waiver of these rules.~~ The commission, upon its own initiative or upon the motion of any interested person, shall suspend or waive any procedural requirement or limitation imposed by this chapter upon reasonable notice to affected persons when it appears that the proposed waiver or suspension would be lawful, and would be more likely to promote the fair, accurate and efficient resolution of issues properly pending before the board than would adherence to a particular procedural rule or rules. A motion for waiver or suspension of a procedural rule shall establish good cause for granting the requested relief.

PROPOSED NEW RULES:

Fire 101.27 "Moral character" means the degree or extent of an individual's honesty and respect for the law.

Fire 101.28 "Moral turpitude" means an illegal act involving dishonesty, deceit, theft, or willful misrepresentation.

Proposed change for military activation:

current

Fire 701.03 Mandatory Standards Time Extensions.

(a) The commission shall extend a time limit established in these rules, up to the statutorily allowed maximum under RSA 21-P:29, I, to a department or the person on presentation of evidence by the hiring authority or the person that the fire fighter is unable to complete the required courses within the prescribed time period because of:

- (1) Illness;
- (2) Injury;
- (3) Military service;
- (4) Special duty assignments; or
- (5) The unavailability of an instructor, a course, or a program.

VIII. Proposed

Fire 701.03 Mandatory Standards Time Extensions.

(a) The commission shall extend a time limit established in these rules, up to the statutorily allowed maximum under RSA 21-P:29, I, to a department or the person on presentation of evidence by the hiring authority or the person that the fire fighter is unable to complete the required courses within the prescribed time period because of:

- (1) Illness;
- (2) Injury;
- ~~(3) Military service;~~
- (43) Special duty assignments; or
- ~~(54)~~ The unavailability of an instructor, a course, or a program.

(b) Personnel mandated to active military duty shall be considered to be at the same tenure upon re-employment as they were upon commencement of their activation.